

ORDINANCE NO. 12

ORDINANCE GRANTING TO PACIFIC GAS AND ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE TO CONSTRUCT, MAINTAIN AND USE POLES, WIRES, CONDUITS AND APPURTENANCES, INCLUDING COMMUNICATION CIRCUITS, NECESSARY OR PROPER FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY TO THE PUBLIC FOR ANY AND ALL PURPOSES IN, ALONG, ACROSS, UPON, UNDER AND OVER THE PUBLIC STREETS AND PLACES WITHIN THE TOWN OF PARADISE

The Town Council of the Town of Paradise does ordain as follows:

Section 1. Whenever in this ordinance the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

- (a) The word "Grantee" shall mean Pacific Gas and Electric Company, and its lawful successors or assigns.
- (b) The word "City" shall mean the Town of Paradise a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.
- (c) The word "streets" shall mean the public streets, ways, alleys and places as the same now or may hereafter exist within City, including State highways now or hereafter established within City, and freeways hereafter established within City.
- (d) The phrase "poles, wires, conduits and appurtenances" shall mean poles, towers, supports, wires, conductors, cables, guys, stubs, platforms, crossarms, braces, transformers, insulators, conduits, ducts, vaults, manholes, meters, cut-outs, switches, communication circuits, appliances, attachments, appurtenances, and, without limitation to the foregoing, any other property located or to be located in, upon, along, across, under or over the streets of City, and used or useful in transmitting and/or distributing electricity.

- (e) The phrase "construct, maintain and use" shall mean to construct, erect, install, lay, operate, maintain, use, repair or replace.

Section 2. The franchise to construct, maintain and use poles, wires, conduits and appurtenances necessary or proper for transmitting and distributing electricity to the public for any and all purposes, in, along, across, upon, under and over the streets within Town is hereby granted to Grantee.

Section 3. Grantee shall relocate, without expense to Town, any poles, wires, conduits and appurtenances constructed, maintained or used under this franchise, if and when made necessary by any lawful change of grade, alignment or width of any streets by Town, including the construction of any subway or viaduct, provided, however, that the cost of any such relocation made necessary by the construction or any lawful change of grade, alignment or width of any freeway constructed by the State of California shall be divided equally between Grantee and the State of California.

Section 4. Said franchise shall be indeterminate, that is to say, said franchise shall endure in full force and effect until the same shall, with the consent of the Public Utilities Commission of the State of California, be voluntarily surrendered or abandoned by Grantee, or until the State or some municipal or public corporation thereunto duly authorized by law shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of said franchise and situate in the territorial limits of the State, municipal or public corporation purchasing or condemning such property, or until said franchise shall be forfeited for noncompliance with its terms by Grantee.

Section 5. Grantee shall during the term of said franchise pay to City two per cent (2%) of the gross annual receipts of Grantee arising from the use, operation or possession of said

franchise; provided, however, that such payment shall in no event be less than one per cent (1%) of the gross annual receipts of Grantee derived from the sale of electricity within the limits of Town.

Section 6. Grantee shall file with the City Clerk of Town, within three (3) months after the expiration of the calendar year, or fractional calendar year, following the date of the granting hereof, and within three (3) months after the expiration of each and every calendar year thereafter, a duly verified statement showing in detail the total gross receipts of Grantee during the preceding calendar year, or such fractional calendar year, from the sale of electricity within Town. Grantee shall pay to Town within fifteen (15) days after the time for filing such statement, in lawful money of the United States, the aforesaid percentage of its gross receipts for such calendar year, or such fractional calendar year, covered by such statement. Any neglect, omission or refusal by Grantee to file such verified statement, or to pay said percentage at the time and in the manner specified, shall be grounds for the declaration of a forfeiture of this franchise and of all rights of Grantee hereunder.

Section 7. Said franchise is granted under the Franchise Act of 1937.

Section 8. This ordinance shall become effective thirty (30) days after its final passage unless suspended by a referendum petition filed as provided by law.

Section 9. Grantee shall pay to Town a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting of said franchise. Such payment shall be made within thirty (30) days after Town shall have furnished Grantee with a written statement of such expenses.

Section 10. The franchise granted hereby shall not become effective until written acceptance thereof shall have been filed by Grantee with the Town Clerk of Town.


Section 11. The Town Clerk of Town shall cause this ordinance to be posted in at least three (3) public places in Town in accordance with Section 36933 of the Government Code of the State of California.

First read at a regular meeting of the Town Council of Town held on the 6th day of FEBRUARY, 1980, and finally adopted and ordered posted at a regular meeting of said Council held on the 20th day of FEBRUARY, 1980, by the following vote:

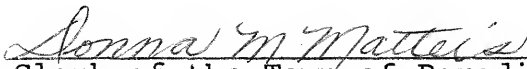
AYES: Councilmen Dona D. Gavagan, William S. Holding,
Alonzo A. Plumb, Dr. William R. Taylor, Warren H. Humbert

NAYS: Councilmen None

ABSENT: Councilmen None


Mayor of the Town of Paradise
WARREN H. HUMBERT, Mayor

ATTEST:


Clerk of the Town of Paradise
DONNA M. MATTEIS, Town Clerk